



General Assembly

February Session, 2004

Raised Bill No.

LCO No. 73

Referred to Committee on

Introduced by:
(GAE)

***AN ACT CONCERNING MUNICIPAL ETHICS COMMISSIONS AND
MUNICIPAL ETHICS CODES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) Notwithstanding any
2 provision of the general statutes or any special act, municipal charter
3 or municipal ordinance, the provisions of sections 2 to 12, inclusive, of
4 this act shall apply to each town, city, borough and district, as defined
5 in section 7-324 of the general statutes, except that (1) the
6 establishment of an ethics agency by a town, city, borough or district
7 pursuant to section 7-148h of the general statutes, as amended by this
8 act, before the effective date of this section, shall supercede the
9 provisions of section 3 of this act requiring the establishment of a
10 municipal ethics commission and the provisions of subsection (c) of
11 section 5 of this act concerning voting by commission members, and
12 (2) the provisions of any code of ethical conduct adopted by a town,
13 city, borough or district before or after the effective date of this section
14 under subdivision (10) of subsection (b) of section 7-148 of the general
15 statutes or section 7-148h of the general statutes, as amended, shall
16 supercede the provisions of sections 2 to 12, inclusive, of this act only

17 to the extent such municipal code provides greater ethical protections
18 than the provisions of sections 2 to 12, inclusive, of this act, as
19 determined by the legislative body of such town, city, borough or
20 district.

21 Sec. 2. (NEW) (*Effective October 1, 2004*) As used in sections 2 to 12,
22 inclusive, of this act:

23 (1) "Business" means any entity through which business for profit or
24 not-for-profit is conducted, including a corporation, partnership,
25 proprietorship, firm, enterprise, franchise, association, organization or
26 self-employed individual.

27 (2) "Business with which he is associated" means a business of
28 which a public official or public employee or a member of his
29 immediate family is a director, officer, owner, employee, compensated
30 agent or holder of stock which constitutes five per cent or more of the
31 total outstanding stock of any class.

32 (3) "Code" means sections 2 to 12, inclusive, of this act.

33 (4) "Confidential information" means information, whether
34 transmitted orally or in writing, which is obtained by reason of the
35 public position or office held and is of such nature that it is not, at the
36 time of transmission, a matter of public record or public knowledge.

37 (5) "Commission" means a municipal ethics commission established
38 in section 3 of this act.

39 (6) "Financial interest" means any interest with a monetary value of
40 one hundred dollars or more or which generates a financial gain or
41 loss of one hundred dollars or more in a calendar year.

42 (7) "Gift" means anything of value, including entertainment, food,
43 beverage, travel and lodging given or paid to a public official or public
44 employee to the extent that consideration of equal or greater value is
45 not received. A gift does not include:

46 (A) A political contribution otherwise reported as required by law
47 or a donation or payment as described in subdivision (9) or (11) of
48 subsection (b) of section 9-333b of the general statutes;

49 (B) Services provided by persons volunteering their time;

50 (C) A commercially reasonable loan made on terms not more
51 favorable than loans made in the ordinary course of business;

52 (D) A gift received from (i) an individual's spouse, fiancé or fiancée,
53 (ii) the parent, brother or sister of such spouse or such individual, or
54 (iii) the child of such individual or the spouse of such child;

55 (E) Goods or services which are provided to the municipality or
56 special district and facilitate governmental action or functions;

57 (F) A certificate, plaque or other ceremonial award costing less than
58 one hundred dollars;

59 (G) A rebate or discount on the price of anything of value given in
60 the ordinary course of business without regard to the recipient's status;

61 (H) Printed or recorded informational material germane to
62 governmental action or functions;

63 (I) Items of nominal value, not to exceed ten dollars, containing or
64 displaying promotional material;

65 (J) An honorary degree bestowed upon a public official or public
66 employee by a public or private university or college;

67 (K) A meal provided at an event or the registration or entrance fee
68 to attend such an event, in which the public employee or public official
69 participates in said person's official capacity;

70 (L) A meal provided in the home by an individual who resides in
71 the municipality or special district; or

72 (M) Gifts in-kind of nominal value not to exceed twenty-five dollars
73 tendered on gift-giving occasions generally recognized by the public
74 including Christmas, Hanukkah, birthdays, the birth or adoption of a
75 child, weddings, confirmations or bar or bat mitzvahs, provided the
76 total value of such gifts in any calendar year do not exceed fifty
77 dollars.

78 (8) "Immediate family" means any spouse, child or dependent
79 relative who resides in the individual's household.

80 (9) "Individual" means a natural person.

81 (10) "Municipality" means a town, city or borough.

82 (11) "Official responsibility" means the direct administrative or
83 operating authority, whether intermediate or final and whether
84 exercisable personally or through subordinates, to approve,
85 disapprove or otherwise direct government action.

86 (12) "Person" means an individual, sole proprietorship, trust,
87 corporation, union, association, firm, partnership, committee, club or
88 other organization or group of persons.

89 (13) "Personal interest" means an interest in any action taken by the
90 municipality or special district in which an individual will derive a
91 nonfinancial benefit or detriment but which will result in the
92 expenditure of municipal funds.

93 (14) "Public employee" means a person employed, whether full or
94 part time, by a municipality or a special district.

95 (15) "Public official" means an elected or appointed official, whether
96 paid or unpaid or full or part time, of a municipality or political
97 subdivision thereof, or a special district, including candidates for the
98 office and shall also include a district officer elected pursuant to
99 section 7-327 of the general statutes.

100 (16) "Special district" means a district established pursuant to
101 section 7-324 of the general statutes.

102 Sec. 3. (NEW) (*Effective October 1, 2004*) (a) Each municipality and
103 special district shall establish a municipal ethics commission consisting
104 of five members. The members shall be appointed by a vote of two-
105 thirds of the members of the legislative body of the municipality or
106 special district who are present and voting. The members of a
107 municipal ethics commission shall serve a term of three years, except
108 that, of the initially appointed members, one shall serve for one year,
109 two for two years, and two for three years. No individual shall be
110 appointed to more than one three-year term, provided a member may
111 continue in office until a successor has been appointed. No more than
112 three shall be members of the same political party. Two or more
113 municipalities or special districts may jointly establish a municipal
114 ethics commission required under this section.

115 (b) All members of a municipal ethics commission shall be electors
116 of the municipality or special district establishing the commission. No
117 member of a municipal ethics commission shall: (1) Hold or campaign
118 for any public office; (2) have held public office or have been a
119 candidate for public office for a two-year period prior to appointment;
120 (3) hold office in any political party or political committee; (4) serve as
121 a member of any other agency of such municipality or district; or (5) be
122 a public official or public employee of the municipality or special
123 district that established such municipal ethics commission or an
124 official or employee of a quasi-public agency of such municipality or
125 special district.

126 (c) (1) Although any member or employee of a commission shall
127 have an unrestricted right to vote, make political contributions or
128 attend fundraising or other political events, no member or employee
129 shall publicly support any candidate for any municipal or special
130 district office subject to the commission's jurisdiction, including, but
131 not limited to, volunteering as a campaign worker, giving a speech at a

132 political event or formally endorsing a candidate. (2) No candidate for
133 municipal or special district office may disseminate information that
134 indicates that a commission member or employee supports the
135 candidate's candidacy.

136 (d) The members of a commission shall elect a chairperson who
137 shall preside at meetings of the commission and a vice-chairperson to
138 preside in the absence of the chairperson. Three members shall
139 constitute a quorum. A majority vote of the commission shall be
140 required for action of the commission. The chairperson or any three
141 members may call a meeting of the commission.

142 Sec. 4. (NEW) (*Effective October 1, 2004*) (a) The municipal ethics
143 commission shall: (1) Compile and maintain a record of all reports,
144 advisory opinions, statements and memoranda filed by and with the
145 commission to facilitate public access to such reports and statements;
146 (2) issue advisory opinions with regard to the requirements of this
147 code upon the request of any person. Advisory opinions rendered by
148 the commission, until amended or revoked, shall be binding on the
149 commission and shall be deemed to be final decisions of the
150 commission. Any advisory opinion concerning the person who
151 requested the opinion and who acted in reliance thereon, in good faith,
152 shall be an absolute defense in any matter brought under the
153 provisions of this code; and (3) report annually on or before February
154 first to the legislative body of the municipality or special district,
155 summarizing the activities of the commission.

156 (b) The commission may adopt, after a public hearing, rules and
157 regulations not inconsistent with the code for the administration and
158 implementation of the code.

159 (c) The commission may employ necessary staff or outside counsel
160 within available appropriations.

161 Sec. 5. (NEW) (*Effective October 1, 2004*) (a) (1) Upon the complaint of
162 any person on a form prescribed by the municipal ethics commission,

163 signed under penalty of false statement, or upon its own complaint,
164 the commission shall investigate any alleged violation of the code.

165 (2) Not later than ten days after the receipt or issuance of such
166 complaint, the commission shall provide notice of such receipt or
167 issuance and a copy of the complaint by registered or certified mail to
168 any respondent against whom such complaint is filed and shall
169 provide notice of the receipt of such complaint to the complainant.

170 (3) If the complaint has been filed by a member of the public, the
171 commission shall review the complaint to determine whether or not
172 the allegations contained therein constitute a violation of any provision
173 of the code. If the commission determines that the complaint does not
174 allege sufficient acts to constitute a violation, the commission shall
175 dismiss the complaint and duly notify the complainant and respondent
176 by registered or certified mail.

177 (4) If the commission determines that the complaint alleges
178 sufficient acts to constitute a violation, then within thirty days after so
179 determining, the commission shall fix a date for the commencement of
180 the hearing on the allegation contained in the complaint. The hearing
181 date regarding any complaint shall be not more than sixty days after
182 the filing of the complaint.

183 (b) (1) In the conduct of its investigation of an alleged violation of
184 the code, the commission shall have the power to hold hearings,
185 administer oaths, examine witnesses, receive oral and documentary
186 evidence, subpoena witnesses and require the production for
187 examination by the commission of any books and papers which the
188 commission deems relevant in any matter under investigation or in
189 question. In the exercise of such powers, the commission may use the
190 services of the municipal police, who shall provide the same upon the
191 commission's request.

192 (2) The respondent shall have the right to appear and to be
193 represented by legal counsel and to examine and cross-examine

194 witnesses at any such hearing. Any hearing conducted by the
195 commission shall be governed by the administrative rules of evidence.

196 (c) The commission shall make no finding that there is a violation of
197 any provision of the code except upon the concurring vote of at least
198 four of its members.

199 (d) No complaint may be made under the code except within five
200 years after the violation alleged in the complaint has been committed.

201 (e) After receipt of information from an individual, the commission
202 shall not disclose the identity of such individual without the
203 individual's consent unless the commission determines that such
204 disclosure is unavoidable during the course of an investigation.

205 Sec. 6. (NEW) (*Effective October 1, 2004*) (a) Each complaint under
206 section 5 of this act and the record of the commission's investigation
207 shall remain confidential, except upon the request of the respondent,
208 unless the commission determines that there is probable cause that a
209 violation was committed. No complainant, respondent, witness,
210 designated party or commission or staff member shall disclose to any
211 third party any information learned from an investigation of a
212 complaint, including knowledge of the existence of a complaint, which
213 the disclosing party would not otherwise have known.

214 (b) The commission shall inform the complainant and the
215 respondent of its finding with regard to the complaint and provide
216 them a summary of its reasons for making such a finding by registered
217 or certified mail not later than three business days after termination of
218 the hearing. The commission shall make public a finding of a violation
219 not later than five business days after the termination of the hearing.
220 At such time, the entire record of the investigation shall become public.

221 (c) Any respondent aggrieved by a decision of the commission
222 regarding a finding of a violation may, within thirty days, take an
223 appeal to the superior court for the judicial district in which the

224 municipality or special district is located.

225 Sec. 7. (NEW) (*Effective October 1, 2004*) Violation of any provision of
226 sections 8 to 12, inclusive, of this act shall constitute grounds for, and
227 may be punished by (1) public censure and reprimand, (2) in the case
228 of a public employee, dismissal from employment or suspension from
229 employment for not more than ninety days without pay, (3) a civil
230 penalty of not more than two thousand dollars per violation, or (4)
231 restitution of any pecuniary benefits received because of the violation
232 committed.

233 Sec. 8. (NEW) (*Effective October 1, 2004*) (a) No public employee or
234 public official shall engage in or participate in any business or
235 transaction, including outside employment with a private business, or
236 have an interest, direct or indirect, that is incompatible with the proper
237 discharge of the employee's or official's responsibilities in the public
238 interest or that would tend to impair the employee's or official's
239 independent judgment or action in the performance of the employee's
240 or official's responsibilities.

241 (b) (1) No public employee or public official shall solicit or accept
242 any gift from any person that, to the employee's or official's
243 knowledge, is interested in any pending matter within such
244 individual's official responsibility.

245 (2) If a prohibited gift is offered, the employee or official shall refuse
246 it, return it, pay the donor the full value of the gift or donate it to a
247 nonprofit organization, provided the employee or official does not take
248 the corresponding tax deduction or credit. Alternatively, the gift may
249 be deemed to be a gift to the municipality or special district, provided
250 it remains in the municipality's or special district's possession
251 permanently.

252 (c) (1) A public employee or public official shall refrain from voting
253 upon or otherwise participating in any matter on behalf of the
254 municipality or special district if he, a business with which he is

255 associated, or a member of his immediate family, has a financial or
256 personal interest in the matter, including, but not limited to, the sale of
257 real estate, material, supplies or services to the municipality or special
258 district.

259 (2) If such participation is within the scope of the public employee's
260 or public official's official responsibility, the employee or official shall
261 provide written disclosure, which sets forth in detail the nature and
262 extent of such interest, to the commission.

263 (3) Notwithstanding the prohibition in subdivision (1) of this
264 subsection, a public employee or public official may vote or otherwise
265 participate in a matter that involves a determination of general policy
266 if the employee's or official's interest in the matter is shared with a
267 substantial segment of the population of the municipality or special
268 district.

269 (d) (1) Except for a public official who receives no compensation for
270 service to the municipality or special district other than per diem
271 payments and reimbursement of expenses, no public employee or
272 public official shall appear on behalf of private interests before any
273 board, agency, or committee of the municipality or special district.

274 (2) Except for a public official who receives no compensation for
275 service to the municipality or special district other than per diem
276 payments and reimbursement of expenses, no public employee or
277 public official shall represent private interests against the interest of
278 the municipality or special district in any litigation to which the
279 municipality or special district is a party.

280 (e) Nothing in the code shall prohibit or restrict a public employee
281 or public official from appearing before any board or commission of
282 the municipality or special district on the employee's or official's own
283 behalf, or from being a party in any action, proceeding or litigation
284 brought by or against the public employee or public official to which
285 the municipality or special district is a party.

286 (f) No public employee or public official shall disclose confidential
287 information concerning municipal affairs, nor shall a public employee
288 or public official use such information for the financial interests of the
289 employee or official or others.

290 (g) No public employee or public official shall request or permit the
291 use of municipally-owned vehicles, equipment, facilities, materials or
292 property for personal convenience or profit, except when such are
293 available to the public generally or are provided as municipal policy
294 for the use of such public employee or public official in the conduct of
295 official business.

296 (h) No public employee or public official, or a business with which
297 he is associated, or a member of his immediate family shall enter into a
298 contract with the municipality or special district unless the contract is
299 awarded through a process of public notice and competitive bidding.

300 (i) No public employee or public official may use the employee's or
301 official's position or office for the financial benefit of the employee or
302 official, a business with which he is associated or a member of his
303 immediate family.

304 (j) No public employee or public official shall accept a fee or
305 honorarium for an article, appearance or speech, or for participation at
306 an event, in the employee's or official's official capacity.

307 (k) No public employee or public official, or member of such
308 individual's immediate family or business with which he is associated,
309 shall solicit or accept anything of value, including, but not limited to, a
310 gift, loan, political contribution, reward or promise of future
311 employment based on any understanding that the vote, official action
312 or judgment of the public employee or public official would be or had
313 been influenced thereby.

314 Sec. 9. (NEW) (*Effective October 1, 2004*) (1) No paid consultant of a
315 municipality or special district shall represent a private interest in any

316 action or proceeding against the interest of the municipality or special
317 district that is in conflict with the performance of said person's duties
318 as a consultant.

319 (2) No paid consultant may represent anyone other than the
320 municipality or special district concerning any matter in which the
321 consultant participated personally and substantially as a consultant to
322 the municipality or special district.

323 (3) No paid consultant shall disclose confidential information
324 learned while performing the consultant's duties for the municipality
325 or special district nor shall the consultant use such information for the
326 financial interests of the consultant or others.

327 Sec. 10. (NEW) (*Effective October 1, 2004*) (a) No former public
328 employee or public official shall appear for compensation before any
329 municipal or special district board or agency in which the employee or
330 official was formerly employed at any time within a period of one year
331 after termination of the employee's or official's service with the
332 municipality or special district.

333 (b) No former public employee or public official shall represent
334 anyone other than the municipality or special district concerning any
335 particular matter in which the employee or official participated
336 personally and substantially while in municipal service.

337 (c) No former public employee or public official shall disclose or use
338 confidential information acquired in the course of and by reason of the
339 employee's or official's official duties, for financial gain for himself or
340 others.

341 (d) No former public employee or public official who participated
342 substantially in the negotiation or award of a municipal or special
343 district contract obliging the municipality or special district to pay an
344 amount of one hundred thousand dollars or more, or who supervised
345 the negotiation or award of such a contract shall accept employment

346 with a party to the contract other than the municipality or special
347 district for a period of one year after such contract is signed.

348 Sec. 11. (NEW) (*Effective October 1, 2004*) (a) All public officials, and
349 such public employees as the chief elected official of the municipality
350 or special district shall designate, shall file with the municipal ethics
351 commission, under penalty of false statement, a statement of financial
352 interests for any calendar year in which the official or employee serves
353 in an office or position, on or before the following May first. Any such
354 individual who leaves such office or position shall file a statement of
355 financial interests covering that portion of the year during which the
356 individual held the office or position. The municipal ethics commission
357 shall notify such individuals of the requirements of this subsection
358 within thirty days after their departure from such office or position.
359 Such individuals shall file such statement within sixty days after
360 receipt of the notification.

361 (b) The statement of financial interests shall include the following
362 information for the preceding calendar year in regard to the individual
363 required to file the statement and the individual's spouse and
364 dependent children residing in the individual's household: (1) The
365 names of all businesses with which associated; (2) the category or type
366 of all sources of income in excess of two thousand dollars, without
367 specifying amounts of income; (3) the name of securities in excess of
368 ten thousand dollars at fair market value owned by such individual,
369 spouse or dependent children or held in the name of a corporation,
370 partnership or trust for the benefit of such individual, spouse or
371 dependent children; (4) the existence of any known blind trust and the
372 names of the trustees; (5) all real property and its location, whether
373 owned by such individual, spouse or dependent children or held in the
374 name of a corporation, partnership or trust for the benefit of such
375 individual, spouse or dependent children; (6) the names and addresses
376 of creditors to whom the individual, the individual's spouse or
377 dependent children, individually, owed debts of more than ten
378 thousand dollars; and (7) any leases or contracts with the municipality

379 or special district held or entered into by the individual or a business
380 with which he or she was associated.

381 (c) The statement of financial interests filed pursuant to this section
382 shall be a public record subject to disclosure under the Freedom of
383 Information Act, as defined in section 1-200 of the general statutes.

384 (d) Any individual who is unable to provide information required
385 under the provisions of subsection (b) of this section by reason of
386 impossibility may petition the commission for a waiver of said
387 provisions.

388 Sec. 12. (NEW) (*Effective October 1, 2004*) The municipal clerk of a
389 municipality shall cause a copy of the code to be distributed to every
390 public employee and public official of the municipality or any special
391 district located within the municipality, not later than sixty days after
392 the effective date of this section. Each public employee and public
393 official who is hired after the effective date of this section shall be
394 furnished a copy of the code before entering upon the duties of the
395 employee's or official's office or employment. A signed receipt for all
396 copies shall be returned to the town clerk and retained on file.

397 Sec. 13. Section 7-148h of the general statutes is repealed and the
398 following is substituted in lieu thereof (*Effective October 1, 2004*):

399 [(a)] Any town, city, district, as defined in section 7-324, or borough
400 may, by charter provision or ordinance, establish a board, commission,
401 council, committee or other agency to investigate allegations of
402 unethical conduct, corrupting influence or illegal activities levied
403 against any official, officer or employee of such town, city, district or
404 borough. [The provisions of subsections (a) to (e), inclusive, of section
405 1-82a shall apply to allegations before any such agency of such
406 conduct, influence or activities, to an investigation of such allegations
407 conducted prior to a probable cause finding, and to a finding of
408 probable cause or no probable cause. Any board, commission, council,
409 committee or other agency established pursuant to this section may

410 issue subpoenas or subpoenas duces tecum, enforceable upon
411 application to the Superior Court, to compel the attendance of persons
412 at hearings and the production of books, documents, records and
413 papers.]

414 [(b) Notwithstanding the provisions of any special act, municipal
415 charter or ordinance to the contrary, an elected official of any town,
416 city, district or borough that has established a board, commission,
417 council, committee or other agency under subsection (a) of this section,
418 has an interest that is in substantial conflict with the proper discharge
419 of the official's duties or employment in the public interest and of the
420 official's responsibilities as prescribed by the laws of this state, if the
421 official has reason to believe or expect that the official, the official's
422 spouse or dependent child, or a business with which he is associated,
423 as defined in section 1-79, will derive a direct monetary gain or suffer a
424 direct monetary loss, as the case may be, by reason of the official's
425 official activity. Any such elected official does not have an interest that
426 is in substantial conflict with the proper discharge of the official's
427 duties in the public interest and of the official's responsibilities as
428 prescribed by the laws of this state, if any benefit or detriment accrues
429 to the official, the official's spouse or dependent child, or a business
430 with which he, his spouse or such dependent child is associated as a
431 member of a profession, occupation or group to no greater extent than
432 to any other member of such profession, occupation or group. Any
433 such elected official who has a substantial conflict may not take official
434 action on the matter.]

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>

Sec. 8	<i>October 1, 2004</i>
Sec. 9	<i>October 1, 2004</i>
Sec. 10	<i>October 1, 2004</i>
Sec. 11	<i>October 1, 2004</i>
Sec. 12	<i>October 1, 2004</i>
Sec. 13	<i>October 1, 2004</i>

Statement of Purpose:

To require each municipality and special district to establish an ethics commission, and to establish an ethics code for municipal and special district officials and employees.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]